
OPINION OF THE PUBLIC ACCESS COUNSELOR

JEFF D. BAKER,
Complainant,

v.

INDIANA PROFESSIONAL LICENSING AGENCY,
Respondent.

Formal Complaint No.
18-FC-6

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to the formal complaint alleging the Indiana Professional Licensing Agency (“PLA”) violated the Access to Public Records Act¹ (“APRA”). The PLA has responded via Deputy Director and General Counsel Michael A. Minglin. In accordance with Indiana Code section 5-14-5-10, I issue the following opinion to the formal

¹ Ind. Code §§ 5-14-3-1 to -10

complaint received by the Office of the Public Access Counselor on January 18, 2018.

BACKGROUND

Jeff D. Baker (“Complainant”) filed a public records request on November 27, 2017 seeking copies of public records associated with three named cause numbers for three individuals. The PLA responded and acknowledged the request on November 28, 2017. As of the date of the filing of his complaint, Baker had not received any additional documentation from the PLA.

The PLA responded to Baker’s formal complaint on February 5, 2018. Contemporaneous with the response, the PLA released the public records contained in the three files that Baker requested. The PLA acknowledged the delay in production of records and concedes it was an administrative oversight. Deputy Director Minglin made assurances that the records request process would be revised to ensure such an oversight did not happen again.

ANALYSIS

APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. The Indiana Professional Licensing Agency is a public agency for the purposes of the APRA; and therefore, subject to its requirements. Ind. Code § 5-14-3-2(n). Thus, any person has the right to inspect and copy the PLA’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. Ind. Code § 5-14-3-3(a).

This Office has interacted with the PLA staff on several occasions and knows the agency to be diligent about public records requests. That said, mistakes happen – especially within the bureaucracy of large agencies. The purpose of these opinions are not to browbeat public agencies for mistakes but to remind them of their obligations under the public access statutes and to encourage course corrections when necessary. And so it is in the instant case. I have no reason to question the PLA’s word when it states that this was an inadvertent oversight and corrective action will be taken to avoid a repeat. It appears the PLA has done so by issuing the documents requested.

Once the production was complete, this Office reached out to the Complainant to inquire whether he was satisfied with his request. Baker contends there is an additional document missing. Specifically, he identifies a “2015 Accountancy CPE Audit Checklist” associated with his own file, apparently sought in past records requests. The three files in the instant

case appears to contain these checklists. While it is not the purpose of this Office to re-litigate PLA audits or prove or disprove the existence of any document, it does stand to reason this record may exist and should be released to the Complainant.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that the Indiana Professional Licensing Agency cured any non-compliance, however, it is encouraged that the PLA look into the issue of the missing document as soon as possible.

A handwritten signature in black ink, appearing to be 'LH Britt', written in a cursive style.

Luke H. Britt
Public Access Counselor